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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATION COMMISSION
WASHINGTON, D.C. 20554

IN THE MATTER OF

PERFORMANCE MEASURES AND REPORTING)
REQUIREMENTS FOR OPERATIONS)
SUPPORT SYSTEMS, INTERCONNECTION,)
AND OPERATOR SERVICES AND DIRECTORY)
ASSISTANCE)

CC DOCKET NO. 98-56
RM-9101

COMMENTS OF
NETWORK ACCESS SOLUTIONS, INC.

The Commission should revise its proposed OSS performance measurements in the manner set forth in Part I below in order to help ensure that LECs provide unbundled loops and physical collocation on non-discriminatory terms to carriers offering xDSL access service. The agency also should adopt OSS performance *standards* governing loop pre-ordering and collocation provisioning to xDSL access service providers to help ensure that xDSL providers have an ability to offer service on terms that are just and reasonable. Proposed standards are described in Part II below.

BACKGROUND

The Commission instituted this proceeding in order to give meaning to Section 251(c) of the Act by establishing OSS performance measurements that "permit direct comparisons between the incumbent's performance in serving its own retail customers and its performance in providing [facilities] and service to competing carriers."^{1/} Performance measurements that permit this comparison will help give meaning to Section 251(c) since that statute requires LECs to provide competing carriers with facilities and services on terms that are both "non-discriminatory" and "just and reasonable."

1/ Notice at 14.

Several carriers, including Network Access Solutions ("NAS"), have been formed specifically to provide dedicated xDSL access service to end users. xDSL access service is a telecommunications service that provides a computer user with a high-speed, dedicated connection to the Internet.^{2/}

At present, LEC competitors are the principal providers of xDSL access service. While LECs almost certainly will be major participants in the xDSL access market in the future, most still have not begun to provide service or do so only in small geographic areas.

A LEC competitor provides xDSL access service by obtaining local loops and collocation service from the LEC that operates in the area where xDSL service is offered. The xDSL provider then deploys xDSL electronics on both ends of the loops that it has obtained from the LEC, and it connects these loops to local points of presence of ISPs by obtaining transport facilities either from the LEC as an unbundled network element or from some other source.

Not all loops are technologically capable of supporting transmission at xDSL speed. A given loop will not support xDSL transmission if its copper wire length exceeds a specified distance (15,000 feet for most types of xDSL service).^{3/} Even some short loops will not support transmission at xDSL speed unless load coils and bridge taps which are installed on some loops in

2/ xDSL access service also can be used to provide a telecommuter with a high-speed, dedicated connection to his or her company's central computer system. Several newly created xDSL access service companies have started commercial operation. See Comments in Dkts. 98-11 et al. by Covad Communications Co. and separate comments by DSL Access Telecommunications Alliance (filed Apr. 6, 1998). NAS plans to begin providing service commercially on the East coast as soon as it and Bell Atlantic complete a beta test now underway in Virginia. That test is scheduled to conclude late next month.

3/ While most loops consist entirely of copper wire, some consist of a combination of fiber and copper wire. In those cases, the fiber and copper wire components are connected through a remote terminal, such as a digital loop carrier ("DLC"). Transmission at xDSL speed can occur on a combination fiber/copper wire loop that exceeds 15,000 feet as long as the copper wire portion of the loop is less than the maximum length for that type of xDSL service (i.e., 15,000 feet for most types of xDSL service as indicated above).

order to facilitate voice transmission -- are removed. A short loop likewise may not support transmission at xDSL speed if its impedance level exceeds a specific threshold that varies with different types of xDSL service.

DISCUSSION

I. The Commission Should Revise Its Proposed Performance Measurements for Providing Loop Availability Information and for Dealing with Collocation Requests

In order to help prevent discrimination in the provision of OSS to carriers providing xDSL access service, the FCC should change in two ways the criteria it has proposed for measuring a LEC's response to requests for loop availability information.^{4/} It is important for the Commission to ensure that a LEC respond to requests for loop availability information in a non-discriminatory manner since, as the agency recognizes, timely access to such information "is critical to a competing carrier's ability to interact with its customers."^{5/}

First, the Commission should require that a LEC measure separately the time it takes to determine loop availability for provision of xDSL access service and the time it takes to determine loop availability for other services since the time required to determine loop availability for xDSL service is longer at present than the time required to determine loop availability for other services.

Carriers providing xDSL service require information from the LEC about whether a loop capable of serving a given street address is technologically able to support transmission at the desired speed. As indicated above, the necessary data includes information about copper wire length, loop

4/ Notice at ¶¶ 43-45, App. A at 1. The two revisions to loop availability information that NAS requests in these comments are necessary regardless of whether that information is provided during the pre-ordering process or the ordering process. While the Notice assumes that loop availability information is provided in the pre-ordering process, LECs more typically provide this information to xDSL service providers in the ordering process.

5/ Id. at ¶ 43.

impedance level, and whether the loop contains a bridge tap or load coil. This information is not required in order to determine loop availability for other telecommunications services. In addition, whereas carriers that provide other services rely on real-time (or near real-time) access to a computerized database for all information they need about loop availability, carriers that provide xDSL access service presently must rely on the LEC to determine loop availability by manual means since LECs claim that some information required to determine loop availability for provision of xDSL service to specific addresses has not yet been entered on a computerized database.

The Commission also should amend its proposal for measuring a LEC's provision of loop availability information by adopting a performance measure to be used by a LEC that does not provide xDSL access service on a broad basis in order to help determine whether the LEC provides loop availability information on non-discriminatory terms to those providing xDSL access service. Specifically, a LEC of this type should be required to measure how long it takes to determine loop availability for the LEC's own provision of retail T-1 service using HDSL electronics, and the Commission should make clear that this data can be used in determining whether the LEC responds to xDSL loop availability requests in a non-discriminatory fashion.^{6/} Helping determine whether a LEC provides loop availability information to xDSL providers on nondiscriminatory terms by comparing the time to determine loop availability for the LEC's HDSL-based T-1 offering and a competitor's xDSL offering is reasonable since the information necessary to determine loop availability for both services is comparable. In both cases, service can be provided only on a loop without bridge taps or load coils, with a copper wire length of less than 15,000 feet, and with impedance below a maximum level.

6/ Most LECs provide a customer with traditional T-1 service by using HDSL technology if a loop capable of supporting HDSL serves the customer's address. LECs use HDSL technology to provide T-1 service because it is less costly than other methods given that it eliminates the need to deploy expensive repeaters on the customer's loop at 1,000 foot intervals. One leading supplier of HDSL technology to LECs for provision of T-1 service, PairGain Technologies, is scheduled to announce this week that it recently equipped its one millionth LEC loop with HDSL electronics.

Because it presently takes longer to determine loop availability for xDSL access service and HDSL-based T-1 service than for other services, any actual discrimination in responding to loop availability inquiries by xDSL service providers would be masked without separate measurements of response time for xDSL and HDSL-based T-1 service loop availability inquiries. Stated differently, without separate measurements it is likely that the reported average response time for loop availability inquiries for these two services would not necessarily be evidence of discrimination when compared to the average reported response time for all services given that it presently takes longer to respond to inquiries about loop availability for xDSL and HDSL-based T-1 service than for other services.

The Commission also should revise its proposed collocation measurements in one respect. Not only should it require that a LEC measure the speed with which it deals with a collocation request by a competitor as proposed,^{7/} it also should require that the LEC measure the speed with which it accommodates its own request to deploy xDSL equipment in a central office when the LEC itself initiates commercial xDSL access service out of a central office from which it previously did not provide such service. It is fair to require that a LEC track the speed at which it accommodates its own desire to locate xDSL equipment in a central office from which it previously did not provide xDSL service since the LEC in that case itself is a new market entrant. It also is essential that such measurements be maintained as a benchmark against which the speed at which the LEC deals with collocation requests by competitors can be compared in order to help determine whether the LEC is complying with its statutory duty to provide collocation on nondiscriminatory terms.

7/ Id. at ¶¶ 102-03 and App. A at 17.

II. In Addition to Adopting Performance Measures to Govern Provision of Loop Availability Information to xDSL Providers, the FCC Should Promulgate Three Performance Standards to Help Ensure that Carriers Have an Opportunity to Offer xDSL Service on Reasonable Terms

Not only should the FCC help ensure non-discriminatory provision of OSS to carriers providing xDSL access service as discussed above, it also should help ensure that xDSL access service can be provided on "just and reasonable" terms by adopting the three OSS performance standards discussed below.^{8/} While the Commission's Notice requests recommendations for specific OSS performance standards, it does not suggest specific standards.^{9/}

First, the Commission should require that a LEC provide a competitor with the following technical data about each loop it provides to the competitor for the provision of xDSL access service, and it should require that a LEC provide the same data about the loops that serve a particular street address for which a competitor has requested an xDSL-compatible loop if the LEC concludes that no loops serving that address are capable of supporting transmission at xDSL speed:

- What is the copper wire length of the loop at issue?
- What is the impedance level of the loop at issue?
- Does the loop at issue contain a digital loop carrier?
- What is the makeup (wire gauge) of the loop at issue?
- How many bridge taps does the loop at issue contain, and what is the aggregate bridge tap distance?
- Does the loop at issue contain any load coils?

8/ Id. at ¶ 8 (OSS procedures not only must give service providers an opportunity to compete with LECs on non-discriminatory terms, they also must permit provision of service on terms which are "just" and "reasonable").

9/ Id. at ¶ 125.

Requiring the LEC to provide this information imposes no significant burden on the LEC since it needs to obtain an answer to each of these questions anyway in order to determine whether an xDSL-compatible loop is available to serve the competitor's customer.^{10/} Moreover, the LEC competitor needs this information in order properly to manage its xDSL service business even if the LEC itself does not require all of this information for its own xDSL offering. For example, because Bell Atlantic intends to provide a particular version of xDSL service that requires a copper loop length of less than 10,000 feet, it initially proposed to inform NAS only about whether a particular copper wire loop is less than 10,000 feet long even though many types of xDSL service can be provided on a copper loop that is more than 10,000 feet long.

Second, the Commission should require LECs, within six months of the date that a final order is issued in this proceeding, to provide competitors with on-line access to the data set forth above in the xDSL-compatible loop pre-ordering process. Giving LECs six months from the final order in this proceeding to make this data available on-line is reasonable given that LECs already maintain this data in some form in connection with their provision of ISDN service and T-1 service. Moreover, without on-line access to this data, carriers will be unable to provide xDSL access service on terms that are reasonable for an efficient carrier. Just as a prospective customer of exchange service would not tolerate a lengthy delay in responding to the customer's request for a firm quote of the terms on which the carrier will provide the customer with exchange service, the customer will not tolerate a lengthy delay for a firm quote of the terms at which xDSL access service will be provided.

Finally, the Commission should make clear that a LEC may not deny physical collocation to an xDSL provider in any central office from which the LEC itself initiates xDSL service. In order to provide xDSL service to subscribers whose loops terminate in a given LEC central office,

10/ A LEC should be required to give the competitor different or additional technical parameters of the loop at issue if the LEC uses such additional or different technical parameters in determining xDSL loop availability.

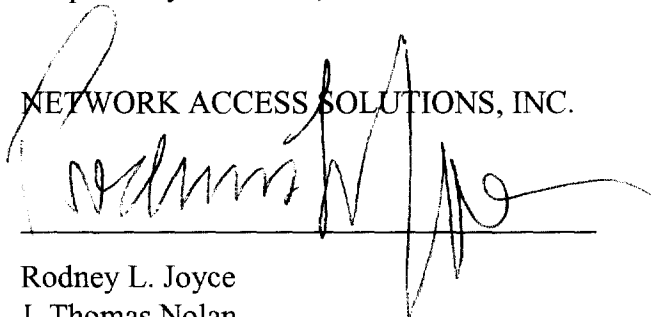
a carrier needs to locate certain equipment in that office. Although the amount of office space required to support xDSL service is small, LECs often deny physical collocation requests by competitors while subsequently deploying such equipment in that same office in order to initiate their own xDSL offering.^{11/}

CONCLUSION

The Commission should revise its proposed OSS performance measurements in the manner set forth above, and it should adopt the performance standards described above.

Respectfully submitted,

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June 1, 1998

11/ See, e.g., Comments of Covad Communications Co., CC Dkt. No. 98-11 et al. at 14 (filed Apr. 6, 1998) (noting that Pacific Bell denied requests to physically collocate Covad's xDSL equipment in certain central offices and then placed its own xDSL equipment in the same offices); Comments of DSL Access Telecommunications Alliance, CC Dkt. Nos. 98-11 et al, affidavit of Steven Gorosh at 5 (filed Apr. 6, 1998) (noting that Bell Atlantic denied requests to physically collocate xDSL equipment in certain offices in which space is then used to place xDSL equipment needed by Bell Atlantic to conduct xDSL trials).